



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

Docket No. USCG-2019-0120

RIN 1625-AA09

Drawbridge Operation Regulation; River Rouge, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to authorize the Conrail Railroad Bridge, mile 1.48, across the River Rouge, to be operated remotely. The request was made by the bridge owner. This proposed rule will test the remote operations with tenders onsite, and will not change the operating schedule of the bridge.

DATES: Comments and related material must reach the Coast Guard on or before [INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2019-0120 using Federal eRulemaking Portal at <http://www.regulations.gov>.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216-902-6085, e-mail Lee.D.Soule@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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| CFR | Code of Federal Regulations |
| DHS | Department of Homeland Security |
| FR | Federal Register |
| IGLD85 | International Great Lakes Datum of 1985 |
| LWD | Low Water Datum based on IGLD 85 |
| OMB | Office of Management and Budget |
| NPRM | Notice of Proposed Rulemaking (Advance, Supplemental) |
| § | Section |
| U.S.C. | United States Code |

II. Background, Purpose and Legal Basis

The River Rouge discharges into the Detroit River at the south end of the city of Detroit, about 2 miles above Fighting Island. A Federal project has improved River Rouge to create a turning basin about 2.5 miles above the entrance. With the exception of a few pleasure vessels the channel is almost exclusively used by large commercial vessels to access various industries along the river. All four drawbridges over the river are required to open on signal and are manned 24-hours a day, 7-days a week. The River Rouge supports foreign and domestic trade in steel production, cement, petroleum refinery, aggregate, and other bulk commodities imported or exported by vessels. The

River Rouge is not listed as an American Heritage River; however, the Detroit River is designated an American Heritage River and a Canadian Heritage River.

The Conrail Railroad Bridge is a single leaf bascule bridge. A horizontal navigation clearance of 123 feet is available. Eight feet of vertical clearance, referred to LWD is available in the closed position. The Conrail Bridge is advertised as having unlimited clearance in the open position; however, the tip of the bridge leaf does encroach slightly into the northern boundary of the navigation channel. The Federal Channel has a bend in the river immediately west of the Conrail Bridge. Because of this bend most large commercial vessels will not enter the river unless they have conformation that this bridge is opened.

The Coast Guard is issuing this NPRM under authority 33 U.S.C. 499.

III. Discussion of Proposed Rule

This notice proposes a new rule for the regulations to allow the Conrail Bridge to operate remotely.

Bridge owners are required to provide necessary drawtenders for the safe and prompt opening of a bridge and to respond to visual, sound, or radiotelephone

communications for openings; unless, authorized by the U.S. Coast Guard District Commander to operate remotely.

Conrail installed the following equipment at the bridge to be considered for remote operations: a public address system that allows 2-way voice communication between vessels and the remote tender; eight digital cameras; two thermal imagery cameras looking upriver and downriver to detect vessels in reduced visibility; and remotely operated VHF-FM Marine Radiotelephone that monitors Channel 16 and Channel 12. All of the listed equipment uses fiber optic technologies to connect to the remote tender. During the comment period a tender will be required to be physically at the bridge to evaluate the remote operations and to intervene if there is a failure in the remote abilities. If this rule is approved, then the bridge will be operated remotely from Mount Laurel, NJ but can also be operated from Detroit, MI, if needed. If there is a discrepancy with the remote equipment Conrail estimates it will take 60-minutes for a tender to arrive at the bridge.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these

statutes and Executive Orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the ability that vessels can still transit the bridge and the bridge will continue to open on signal.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in

their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator because the bridge will continue to open on signal.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will

not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government

and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human

environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under figure 2-1, paragraph (32)(e), of the Instruction.

A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document

to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; and
Department of Homeland Security Delegation No. 0170.1.

2. Add § 117.645 to part 117 to read as follows:

§ 117.645 River Rouge

The draw of the Conrail Bridge, mile 1.48, is remotely operated, is required to operate a radiotelephone, and shall open on signal.

Dated: March 22, 2019

J. M. Nunan
Rear Admiral, U.S. Coast Guard,
Commander, Ninth Coast Guard District
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